

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF RICHARD) APPEAL NO. 07-A-2241
TILLOTSON from the decision of the Board of) FINAL DECISION
Equalization of Butte County for tax year 2007.) AND ORDER

AGRICULTURAL PROPERTY APPEAL

THIS MATTER came on for hearing November 27, 2007, in Arco, Idaho before Board Member David E. Kinghorn. Board Members Lyle R. Cobbs and Linda S. Pike participated in this decision. Appellant Richard Tillotson appeared at hearing. Assessor Laurie Gamett and Prosecuting Attorney Steve Stephens appeared for Respondent Butte County. This appeal is taken from a decision of the Butte County Board of Equalization denying the protest of the valuation (exemption claim) for taxing purposes of property described as Parcel No. RP06N26E321801A.

The issue on appeal is whether subject land property qualifies for an exemption from property taxes pursuant to Idaho Code § 63-604.

The decision of the Butte County Board of Equalization is affirmed.

FINDINGS OF FACT

The assessed land value is \$19,840 under the market value standard. Appellant requests the land be granted an agricultural exemption and therefore assessed at \$637.

The subject property is an unimproved 6.4 acre rural tract. The property is part of a 45 acre parcel with the remaining acreage located in Custer County.

Appellant stated the subject land was used for grazing cattle and should be granted an agricultural exemption under Idaho Code § 63-604. Appellant noted a lease agreement for grazing was executed in June 2007. The agreement was signed by Appellant as the lessor and by a bona fide rancher as the lessee. The Taxpayer also testified there was a verbal agreement

made with the rancher around the same time the lease was signed. Cattle were subsequently placed on the land in the Summer of 2007.

Appellant clarified in prior years subject was leased to a bona fide rancher, however some years the land had insufficient forage and therefore was not grazed.

In noting subject was assessed as rural residential land, Appellant argued the classification was in error because the land was unbuildable due to floods, no road access, and bogged with standing water. Appellant reported subject had no other use but an agriculture use.

The County agreed an Agricultural Eligibility Determination Form was filed by the taxpayer. But it reported there was no written lease provided with the form. Therefore the agricultural exemption was denied. Respondent argued it lacked sufficient information to grant the agricultural exemption for 2007.

Respondent stated as of January 1, 2007, the subject land was not being used as land actively devoted to agriculture and therefore it was assessed as rural residential land.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value or exempt status. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

The issue on appeal is whether subject land qualifies for an agricultural exemption. Idaho Code § 63-604 provides in pertinent part:

(1) For property tax purposes, land which is actively devoted to agricultural shall be eligible for appraisal, assessment and taxation as agricultural property each year it meets one (1) or more of the following qualifications:

(a) The total area of such land, including the homesite, is more than

five (5) contiguous acres, and is actively devoted to agriculture which means:

. . .

(iii) It is used by the owner for the grazing of livestock to be sold as part of a for-profit enterprise, or is leased by the owner to a bona fide lessee for grazing purposes

A lease agreement between Appellant and a bona fide rancher was dated June 1, 2007, and submitted into evidence. The agreement provided for the grazing of several head of cattle at a rate of \$12.50 per animal (cow) unit month. Cattle were subsequently placed on subject. Appellant contended the above factors should qualify subject for an agricultural exemption for 2007.

Respondent noted a letter was sent to Appellant requesting information regarding the land use. The response was received but without any written lease. Therefore Respondent denied the subject land an agricultural exemption.

In determining market value for tax assessments Idaho Code § 63-205(1) states:

All real, personal and operating property subject to property taxation must be assessed annually at market value for assessment purposes as of 12:01 a.m. of the first day in the year in which such property taxes are levied, except as otherwise provided.

Idaho Code §63-205 mandates property be assessed based on its status on January 1 of each tax year. For 2007, this assessment date was January 1, 2007. The key question here was subject's use on or leading up to January 1, 2007.

It is clear from both parties' evidence, subject was not being used as agricultural land on the assessment and lien date, nor was there any evidence in the record of grazing taking place in 2006. Thus the land does not qualify for exemption under Idaho Code § 63-604. The grazing use in 2007 would be pertinent for consideration in the 2008 tax year.

Therefore the decision of the Butte County Board of Equalization denying exemption is affirmed.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Butte County Board of Equalization concerning the subject parcel be, and the same hereby is, affirmed.

MAILED April 30, 2008